SENATE BILL No. 378

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-13.

Synopsis: EDGE credits. Expands eligibility for the economic development for a growing economy (EDGE) tax credit by making the credit available for projects to retain existing jobs, as well as for projects to create jobs. Allows a credit for job creation only if the average wage paid by the taxpayer exceeds: (1) a percentage, determined by the EDGE board, of the average wage paid within the county; or (2) a minimum livable wage determined for the county by the board. Allows a credit for the retention of existing jobs only if the taxpayer: (1) is engaged in research and development, manufacturing, or business services; (2) pays an average compensation that is at least the average compensation paid within the county; and (3) plans to use the credit for facility improvements, for equipment and machinery upgrades, repairs, or retrofits, or for training or information system related expenses.

Effective: July 1, 2002.

Miller

January 10, 2002, read first time and referred to Committee on Energy and Economic Development.

Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 378

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. As used in this chapter, "credit amount" means the amount agreed to between the board and applicant under this chapter, but not to exceed, **for a credit awarded for a project intended to create new jobs in Indiana,** the incremental income tax withholdings attributable to the applicant's project.

SECTION 2. IC 6-3.1-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) The board may make credit awards under this chapter to foster job creation **or the retention of existing jobs** in Indiana.

(b) The credit shall be claimed for the taxable years specified in the taxpayer's tax credit agreement.

SECTION 3. IC 6-3.1-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. A person that proposes a project **intended** to create new jobs **or retain existing jobs** in Indiana may apply to the board to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

SECTION 4. IC 6-3.1-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. **(a)** After receipt of an application **for a credit for a project intended to create new jobs in Indiana,** the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all of the following conditions exist:

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment **in Indiana** and strengthening the economy of Indiana.

(3) **The applicant provides evidence that** there is at least one (1) other state, **nation, or unrelated out-of-state company** that ~~the applicant verifies~~ is being considered for the project.

(4) A significant disparity is identified, using best available data, in the projected costs for the applicant's project compared to the costs in the competing state **or nation,** including the impact of the competing state's **or nation's** incentive programs. The ~~competing state's incentive programs shall include~~ **applicant must identify the** state, local, private, ~~and~~ federal, **or other** funds available **to the applicant under the competing state's or nation's incentive programs.**

(5) The political subdivisions affected by the project have committed significant local incentives with respect to the project.

(6) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

(7) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(8) The credit is not prohibited by section 16 of this chapter.

(b) After receipt of an application for a credit for a project intended to retain existing jobs in Indiana, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing or maintaining

opportunities for employment in Indiana and by strengthening the economy of Indiana.

(3) The applicant provides evidence that there is at least one (1) other competing site that is being considered for the project.

(4) A disparity is identified, using the best available data, in the projected costs for the applicant's project compared with the costs for the project in the competing site.

(5) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

(6) Awarding the tax credit will result in an overall positive fiscal impact for the state, as certified by the budget agency using the best available data.

(7) The applicant is engaged in research and development, manufacturing, or business services (as defined in the Standard Industrial Classification Manual of the United States Office of Management and Budget).

(8) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year is at least equal to the average compensation paid during that same period to all employees in the county in which the applicant's business is located.

(9) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) training or information system related expenses.

(10) The applicant's business is economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and by strengthening the economy of Indiana.

(11) The credit is not prohibited by section 16 of this chapter.

SECTION 5. IC 6-3.1-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. In determining the credit amount that should be awarded **to an applicant that proposes a project intended to create jobs in Indiana,** the board shall take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur.

(2) The potential impact on the economy of Indiana.

(3) The magnitude of the cost differential between Indiana and the competing state **or nation.**

(4) The incremental payroll attributable to the project.

(5) The capital investment attributable to the project.

(6) The amount the average wage paid by the applicant exceeds:

(A) a percentage, determined by the board, of the average wage paid within the county in which the project will be located; **or**

(B) a minimum livable wage determined by the board.

(7) The costs to Indiana and the affected political subdivisions with respect to the project.

(8) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions.

As appropriate, the board shall consider the factors in this section to determine the credit amount to award to an applicant that proposes a project intended to retain existing jobs in Indiana.

SECTION 6. IC 6-3.1-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. The board shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. **For a credit awarded for a project intended to create new jobs in Indiana,** the credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess shall be refunded to the taxpayer.

SECTION 7. IC 6-3.1-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. **(a) For a credit awarded for a project intended to create new jobs in Indiana,** the board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit.

(5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
(6) A requirement that the taxpayer shall annually report to the board the number of new employees who are performing jobs not previously performed by an employee, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this chapter.
(7) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
(8) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.
(9) Any other performance conditions that the board determines are appropriate.

(b) For a credit awarded for the retention of existing jobs in Indiana, the board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:
(1) A detailed description of the business that is the subject of the agreement.
(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.
(3) The credit amount that will be allowed for each taxable year.
(4) A requirement that the applicant shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit.
(5) A requirement that the applicant shall annually report the following to the board:
(A) The number of employees who are employed in Indiana by the applicant.
(B) The compensation (including benefits) paid to the applicant's employees in Indiana.
(C) The amount of the:
(i) facility improvements;
(ii) equipment and machinery upgrades, repairs, or

retrofits; or

(iii) training or information system investments;

made by the applicant.

(6) A requirement that the applicant shall provide written notification to the director and the board not more than thirty (30) days after the applicant makes or receives a proposal that would transfer the applicant's state tax liability obligations to a successor taxpayer.

(7) Any other performance conditions that the board determines are appropriate.

SECTION 8. IC 6-3.1-13-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 24. On a biennial basis, the board shall provide for an evaluation of the tax credit program, giving first priority to using the Indiana economic development council, established under IC 4-3-14-4. The evaluation shall include an assessment of the effectiveness of the program in creating new jobs **and retaining existing jobs** in Indiana and of the revenue impact of the program, and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year.